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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,068	07/11/2003	Steven T. Rosenberg	100202494-1	5908

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FORT COLLINS, CO 80527-2400

EXAMINER

PANDYA, SUNIT

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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11/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/619,068

Applicant(s)

ROSENBERG ET AL.

Examiner

Sunit Pandya

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

This action is in response to amendment filed August 14, 2007.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Oh (US Patent 5,616,078).

Claim 13: Oh discloses a device for controlling a video game comprising a movable input (col. 2: 12-28, wherein the player and his motions are the inputs), an imager attached to the input and operable to capture images of a scene in the vicinity of the input (col. 2: 40-56, 60-64, the marker or imagers, fixed onto the players which capture the player input), a movement detector operable to compute three-dimensional position for the input based in part on one or more comparisons between images of the scene captured by the imager and to generate output signals for controlling the video game based on the computed position coordinates (col. 2-3 59-4).

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Claim 14: Oh discloses the movement detector operable to compute rotational position of the movable input based on one or more comparisons between images of the scene captured by the imager (col. 5: 11-23).

Claim 15: Oh discloses the input as a device for simulating a sports game (col. 5: 24-28, wherein boxing is a sporting event).

Claim 16: Oh discloses the input as formed in shape of glove to be fitted on the player (col. 5: 24-37, wherein the input device can be fitted at multiple body parts which includes hands).

Claims 17-19: Oh discloses a sensor unit, which is attached to the input and operable to generate signals indicative of movement of the input in three-dimensions (col. 5: 11-43, 6-7: 66-7 and 9: 4-14).

Claims 20-24: Oh discloses of a movement detector, which is operable to compute information relative to position information computed from comparison between images of the scene captured by the imager (figure 9, col. 5: 11-43, col. 6: 44-50, 7: 34-50 and 9: 4-14).

Response to Arguments

Applicant's arguments filed 8/14/2007 have been fully considered but they are not persuasive.

Regarding the applicant's arguments that the reference Oh would not work as needed for its intended purpose. The examiner respectfully disagrees with the applicant. Oh as stated above discloses of a marker that will be attached to the players,

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thus the marker being the imager and the camera capturing the movement of the player reflected through the movements of the markers.

With regards to the apparatus claims, while features of an apparatus may be recited either structurally or functionally, claims directed to an **apparatus must be distinguished from the prior art in terms of structure rather than function**. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. (See *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987), *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997), *In re Swinehart*, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971), *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959), and MPEP 2114).

With regards to the applicant's arguments that Oh does not disclose an acceleration sensor, to generate signals indicative of the movement of the input in three dimensions. The examiner respectfully disagrees with the applicant. Oh does teach of a sensor unit, which, besides its lack of label of acceleration sensor, is operable to generate signals indicating the movement of the input in three-dimensions as disclosed by the reference in columns 6-7: 66-7.

Regarding the applicant's arguments that Oh does not disclose anything whatsoever about computing coarse three-dimensional position coordinates for the input. The examiner respectfully disagrees with the applicant and would like point the in

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column 5-7 and 9, Oh discloses of three dimensional position coordinates for the input (see rejection above).

Regarding the applicant's arguments that Oh does not disclose anything whatsoever about computing a measurer of movement rate of the movable input based on the signals received from the acceleration sensor unit and imager captures images of the scene at a variable rate that is set based on the computed movement rate measure, as recited in claim 21. The examiner respectfully disagrees with the applicant. The reference of Oh, as stated in the rejection above, discloses of movement detector, which computes the movement rate of the movable input based on the signals received from the sensor.

With regards to the citations, examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunit Pandya whose telephone number is 571-272-2823. The examiner can normally be reached on 8 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SP


Robert Pezzuto
Supervisory Patent examiner
3714